

REMARKS

I. Status of Claims

Claims 1-6, 8, 9-11 and 13-21 are pending in the application, and all the claims are rejected.

II. Response to Claim Rejection Under 35 U.S.C. §§ 102/103

Claims 1-6, 8-11 and 13-21 are rejected under 35 U.S.C. § 102(a) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over WO 0140361 (hereafter “WO ’361”). The Examiner has based her rejection on Iida et al. (U.S. Patent No. US 6,984,423; hereafter “Iida”), which the Examiner states is the U.S. counterpart of WO ’361.

Applicants respectfully traverse, at least for the following reason.

WO ’361 was published on June 7, 2001, which is after the U.S. filing date of the present application, i.e., April 25, 2001. Therefore, WO ’361 is not a reference under 35 U.S.C. § 102(a) or (b). Moreover, the ’361 patent cannot be used as a reference under 35 U.S.C. § 102(e) because it was not published in English.² Iida, which is the U.S. counterpart of WO ’361, was filed on September 16, 2002 and published on June 26, 2003, both of which are after the U.S. filing date of the present application. Therefore, neither the WO ’361 publication nor Iida can be used as a reference against the present application, and the rejection should be withdrawn.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the §§102/103 rejection of the claims.

² WO ’361 does not qualify as prior art under 35 U.S.C. §102(e) since it was not published in English. Therefore, the international filing date can not be treated as the U.S. filing date for prior art purposes. See MPEP § 706.02(f)(1)(I) and § 2136.03(II).

III. Response to Claim Rejection Under 35 U.S.C. § 103

Claims 1-6, 8-11 and 13-21 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over WO 0142341 (hereafter “WO ’341”) in view of WO ’033. The Examiner is basing her rejection on Iwasa (U.S. Patent No. 6,811,837; hereafter “Iwasa I”) and Iwasa (U.S. Patent No. 6,911,253; hereafter “Iwasa II”), which are the U.S. counterparts WO ’341 and WO ’033, respectively.

Applicants respectfully traverse, at least for the following reason.

WO ’341 was published on June 14, 2001, which is after the U.S. filing date of the present application, i.e., April 25, 2001. Therefore, WO ’341 is not a reference under 35 U.S.C. § 102(a) or (b). Moreover, WO ’341 cannot be used as a reference under 35 U.S.C. § 102(e) because it was not published in English.³ Therefore, WO ’341 cannot be used as a reference against the present application. Although WO ’033 is a reference under 35 U.S.C. § 102(b), i.e., it was published more than a year prior to the U.S. filing date of the present application, WO ’033 alone does not teach or suggest the elements of the present claims. Moreover, the Examiner has withdrawn all previous rejections based on WO ’033.

In view of the above, the § 103 rejection based on WO ’341 in view of WO ’033 should be withdrawn.

IV. Response to Claim Rejection Based on the Ground of Nonstatutory Obviousness-Type Double Patenting

1. Claims 1-6, 8-11 and 13-21 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-22 of Iwasa I in view of Iwasa II.

³ See n. 1.

Applicants respectfully traverse the nonstatutory obviousness type double patenting rejection based on Iwasa I in view of Iwasa II.

Submitted herewith is a Terminal Disclaimer disclaiming any terminal portion of a patent issuing from the present application that extends beyond the term of Iwasa I. Applicants respectfully request reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejection based on Iwasa I in view of Iwasa II, because Iwasa II alone does not teach or suggest all of the limitations of the present claims.

2. Claims 1-6, 8-11, and 13-21 are rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-23 of Iida.

Submitted herewith is a Terminal Disclaimer, thereby obviating the rejections. Thus, Applicants respectfully request reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejection based on Iida.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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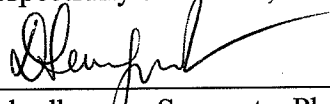
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CUSTOMER NUMBER

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Respectfully submitted,



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